

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE

SOUTHERN DISTRICT OF GEORGIA
Augusta Division

IN RE:)	Chapter 11 Case
)	Number <u>91-10468</u>
BURKE MANUFACTURING COMPANY, INC.)	Filed	
)	at 5 O'clock & 06 min PM
Debtor)	Date: 9-10-91
_____)		

ORDER

By application Louis Saul attorney for the debtor-inpossession in this Chapter 11 proceeding seeks an award of attorney's fees for the period December 11, 1990 through April 8, 1991 in the amount of Nine Thousand Ninety-Three and 75/100 (\$9,093.75) Dollars plus reimbursement of out-of-pocket expenses of Three Hundred Nine and 70/100 (\$309.70) Dollars for a total fee and expense award of Nine Thousand Four Hundred Three and 45/100 (\$9,403.45) Dollars. Bankruptcy Code 330 provides pertinent to Mr.

Saul's application:

- (a) After notice to any party in interest and to the United States Trustee and a hearing, and subject to sections 326, 328 and 329 of this title [11], the court may award . . . to the debtor's attorney -
 - (1) reasonable compensation for actual, necessary services rendered by such attorney, . . . based on the nature, the extent, and the value of such services, the time spent on such services, and the cost of comparable services other than in a case under this title [11]; and
 - (2) reimbursement for actual, necessary expenses.

In arriving at the requested compensation, Mr. Saul has applied an hourly rate of One Hundred Twenty-Five and No/100 (\$125.00) Dollars per hour to the time expended by him in rendering the services as set forth in the application. "In the approval of reasonable attorney's fees, this court must follow the 'lodestar' method of determination adopted by the United States Court of Appeals for the Eleventh Circuit in Norman v. Housing Authority for the City of Montgomery, 836 F.2d 1292 (11th

Cir. 1988). See also In re: Curtis, 83 B.R. 853 (Bankr. S.D. Ga. 1988)." In re: Georgian Arms Properties and Windover Properties, Chapter 11 consolidated case No. 89-10313 p. 7 (Bankr. S.D. Ga. Aug. Div. March 1, 1990, Dalis, J.). Having analyzed the total number of hours expended and the services provided, this aspect of the application for compensation appears reasonable and necessary.

Remaining for resolution is the requested hourly rate of One Hundred Twenty-Five and No/100 (\$125.00) Dollars.

A reasonable hourly rate is determined by the prevailing market rate in the relevant legal community for similar services by lawyers of reasonably comparable skills, experience, and reputation. Blume v. Stinson, 465 U.S. 886, 889 n. 11, 104 S.Ct. 1541, 1547 n. 11, 79 L.E.2d 891, n. 11 (1984). Accord Gains v. Daugherty County Board of Education, 775 F.2d 1565, 1571 (11th Cir. 1985). The relevant legal community used in determining the prevailing market rate by this court is the legal community within the Southern District of Georgia, see In re: S.T.N. Enterprises, 70 B.R. 823 (Bankr. D. Vt. 1987). While the applicant bears the burden of producing satisfactory evidence that the requested hourly rate is in line with prevailing

market rates, NAACP v. City of Evergreen, 812 F.2d 1332, 1338 (11th Cir. 1987), this court has previously established, from competent evidence presented, that an hourly rate not exceeding One Hundred and No/100 (\$100.00) Dollars per hour represents a reasonable hourly rate for competent legal services in this legal community. In re: Lighting Galleries, Chapter 11 case No. 87-10455 (Bankr. S.D. Ga. 1987).

In re: Georgian Arms Properties and Windover Properties consolidated Chpt. 11 case No. 89-10313 pp. 5-6 (Bankr. S.D. Ga. Aug. Div. April 20, 1990 Dalis, J.) Mr. Saul urges this court to deviate from the prior determination as to the hourly rate as applied to attorneys representing debtors-in-possession in Chapter 11 cases. According to Mr. Saul a higher level of expertise is required in representing a Chapter 11 debtor-in-possession. Mr. Saul asserts that the prevailing market rate in the Southern District of Georgia is not less than One Hundred Twenty Five and No/100 (\$125.00) Dollars per hour for legal services similar in complexity to those services required of counsel representing a debtor-in-possession. By previous testimony offered in other proceedings before this court it has been

established that within the Southern District of Georgia attorneys, with at least (10) years of experience in a particular area of practice and the corresponding expertise in that area of practice, are compensated for their services at an hourly rate between One Hundred Twenty-Five and No/100 (\$125.00) Dollars and One Hundred Fifty and No/100 (\$150.00) Dollars. See, In re: Augusta Building Supply, Chpt. 7 case No. 89-11024 (Bankr. S.D. Ga. Augusta Division January 23, 1991 Dalis, J.) and other cases consolidated for hearing therein (order sustaining U.S. Trustee's objection to the hourly rate requested by the attorney for the Chapter 7 trustee). Mr. Saul urges that this court establish a similar standard for compensation of bankruptcy counsel with at least ten (10) years of experience in bankruptcy practice representing a debtor-in-possession in a Chapter 11 proceeding. I am persuaded by Mr. Saul's argument.

Chapter 11 debtor-in-possession representation requires a level of expertise beyond minimal competency in bankruptcy law. In considering an application for compensation of the attorney for a debtor-in-possession, where (1) counsel has at least a ten (10) years of experience in bankruptcy practice, (2) an examination of the services rendered as set forth in the application reveals that the services provided required such level of expertise as expected of a practitioner with ten (10) years of experience, and (3) the requisite expertise is demonstrated by the time efficient manner in which the services were rendered, application for an hourly rate not exceeding One Hundred Twenty-Five and No/100 (\$125.00) Dollars per hour will be authorized without additional showing as to the prevailing market rate for similar legal services in the Southern District of Georgia. In this case, Mr. Saul is a practitioner with more than ten (10) years of experience in bankruptcy litigation and is acting as attorney for the debtor-in-possession. His application for compensation as to the nature and extent of the services rendered demonstrates that the services of counsel with the expertise gained by ten (10) years of bankruptcy practice experience was required, and the time efficient manner in which the required services were provided demonstrates that Mr. Saul possesses and applied

the expertise obtained from such experience. Compensation at an hourly rate of One Hundred Twenty-Five and No/100 (\$125.00) Dollars per hour is approved.

It is therefore ORDERED that Louis Saul attorney for debtor-in-possession in this Chapter 11 proceeding is awarded attorney's fees and costs expended in the amount of Nine Thousand Four Hundred Three and 45/100 (\$9,403.45) Dollars.

JOHN S. DALIS
UNITED STATES BANKRUPTCY JUDGE

Dated at Augusta, Georgia
this 10th day of September, 1991.